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EXAMINER	
BROOKS, MATTHEW L	

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/964,124	GHELA, MANU	
	Examiner	Art Unit	
	Matthew L. Brooks	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 September 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-56* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-56* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1-5, 9, 18, 19, 21, 22, 30, 32, 40, 41, 43, 52, 54** are rejected under 35 U.S.C. 102(b) as being taught by "Peeping Tom television"; Seppard, Robert et al; Maclean's (GMAC), v113 n15; p58-62; April 10, 2000. (Peeping)

3. With respect to **Claim 1 and 18**: Peeping discloses

A lodging facility/method comprising:

a plurality of rooms, each including at least one device configured to collect at least one image of a guest activity in the room (See 1);

and a consent collection point configured to permit a guest to occupy one of the plurality of rooms upon the guest consenting to the lodging facility's use of an image of the guest's activities within the room for the lodging facility's commercial purposes (See 1 where merely the nine persons presence is sufficient for the "consent"; applicant's specification page 9).

4. With respect to **Claim 40**: Peeping discloses

A method of collecting and distributing images of guests to a lodging facility for commercial purposes, the method comprising:

providing at least one device configured to collect an image in each of a plurality of rooms associated with the lodging facility (See 1, "83 cameras);

and permitting a guest to the lodging facility to occupy one of the plurality of rooms in exchange for the guest's consent to allow the image from the room the guest occupies to be used for the lodging facility's commercial purposes (See 1)

collecting an image of the guest's activities in the room (See 1);

and displaying the image of the guest's activities for profit (See 1, on television).

5. With respect to **Claim 2**: Peeping discloses

wherein the at least one image comprises an electronic representation of at least one of a visual image and an audio image (See 1, "83 cameras").

6. With respect to **Claim 3, 19, 21, 22 and 41**: Peeping discloses

wherein the at least one device includes a plurality of devices each configured to collect at least one image (See 1, "their every move filmed by 83 cameras).

7. With respect to **Claim 4**: Peeping discloses

wherein the device in each of the rooms is further configured to transmit the at least one image to an image control center (See 1, inherently images must be sent to a control center).

8. With respect to **Claim 5, 22 and 43**: Peeping discloses

wherein the image control center includes an Internet server associated therewith and configured to display at least one of the collected images on the Internet (See 1).

9. With respect to **Claim 9, 32 and 52**: Peeping discloses.

wherein the consent collection point is further configured to provide the guest one of a discounted stay, a free stay and a promotional item in exchange for consent to use the image for the lodging facility's commercial purposes (See 4, "can win roughly $160,000).

10. With respect to **Claims 15, 37 and 54**: Peeping discloses

wherein whether each of the devices receives an image is controlled by the lodging facility (See 1).

11. With respect to **Claim 30 and 50**: Peeping discloses

further comprising having the guest select a type of activity to participate in for the image to be collected (see 5, the guest always has a "choice" to select what type of activity they would like to participate in).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims **6-8, 10-14, 16, 17, 20, 23-29, 31, 33-36, 38, 39, 42, 44-49, 51, 53, 55 and 56** are rejected under 35 U.S.C. 103(a) as being unpatentable over Peeping.

15. With respect to **Claims 6, 23, and 44**:

Peeping teaches all of the elements claimed with the exception of the displaying the image on the Internet substantially simultaneous with collecting the image step. The examiner takes Official Notice that using web cams to display live on the internet was old and well known in the art at the time of the invention. It would have been obvious to one of ordinary skill in the art at the time of the invention to display the image on the internet substantially simultaneously with the collection thereof in the system of Peeping because the live broadcast would keep viewers interested and in the know of live occurrings on the show. The use and advantages of this step are well known.

16. With respect to Claims **7, 8, 24-27, 36 and 53**:

Claims **7, 8, 24-27, 36 and 53** are rejected under 35 U.S.C. 103 as being unpatentable over Peeping. Peeping teaches all of the elements claimed with the

exception of wherein the Internet server is further configured to store images collected from the devices, editing the images and storing the edited versions and displaying the edited images on the internet and/or selling copies of the edited images as the method of distributing the recorded content captured from the Big Brother house. The examiner takes Official Notice that having an wherein the Internet server is further configured to store images collected from the devices, editing the images and storing the edited versions and displaying the edited images on the internet and/or selling copies of the edited images is old and well established in the business of e-commerce as a convenient way for a consumer to view content and or images owned by a proprietor or creator thereof. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the step of having an Internet server is further configured to store images collected from the devices, editing the images and storing the edited versions and displaying the edited images on the internet and/or selling copies of the edited images in Peeping because the skilled artisan would have recognized that this business practice streamlines the process, allows the owner of the facility and or web-site to have complete control of displayed content, and allows the owner of the site to collect a fee for the viewing thereof and saves time spent by a consumer in making purchases and is clearly applicable to the displaying on the internet of any type of product or activity. These advantages are well known to those skilled in the art.

17. With respect to **Claims 10-12, 28, 29, 31, 48, 49, 51**:

Claims **10-12, 28, 29, 31, 48, 49, 51** are rejected under 35 U.S.C. 103 as being unpatentable over Peeping. Peeping discloses all of the main features and requirements for displaying the activities of a lodging facility over the internet. Peeping does not discuss the use of categorizing rooms, allowing access to the room based upon the assigned room category as claimed. In determining the obviousness of applying what is generally known in the lodging industry to what is known in the world of the Internet one must determine the level of ordinary skill (Dann v. Johnston, 425 U.S. 219, 189 USPQ 257 (1976)). The Internet, to one ordinarily skilled in the art, for some time now is recognized as a vehicle in which information is shared from computer to computer. Internet web sites for some time now have also utilized links which are categorized by themes the title of which indicating the content that will be exposed when the link is clicked upon and when clicked upon takes a user to the proposed theme. Also, the lodging facility industry has utilized categorization of rooms (ie presidential suite) for years which are then selected by guest which may also have extras like toys or games (ie; computer, hot tubs, tv's, video game players) to which a guest may chose to participate. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have categorized the links on the internet base upon the activity occurring in the room or to access the image in a desired manner. The desirability to do this is clearly to save a customer the time of clicking on random links and rooms in which a customer may or may not be interested in observing activity therein.

18. With respect to **Claims 13, 14, 20, and 42**:

Claims **13, 14, 16, 20, 38, 42 and 55** are rejected under 35 U.S.C. 103 as being unpatentable over Peeping. Peeping teaches all of the elements claimed with the exception of the disclosure of having hidden and non-hidden camera step and the automatic turning on of the capture device. The examiner takes Official Notice that one would hide cameras in the show displayed on the internet to stick to the purpose of the show, to show every move of resident within the lodging facility and hiding the camera reduces the presence thereof allowing the resident of the lodge to act more natural. Evidence of this is provided by the following example of a show like "Candid Camera", which notoriously captures funny moments from a hidden camera. It would have been obvious to one of ordinary skill in the art at the time of the invention to hide the image capture device in the system of Peeping because a concealed camera would aid a producer in obtaining the desired result of a reality TV show. The use and advantages of this step are well known.

Furthermore, having the camera turn on automatically or be configured to automatically receive at least one image is old and well known with in the art. Also, as **to Claims 16, 38 and 55** it was known at the time of the invention that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). For example, simply automating the step of turning on the camera to capture a desired image based upon the presence of a person or activity in a room gives you just what you would expect from the manual step as shown in Peeping. In other words

there is no enhancement found in the claimed step. The claimed automation of the capture device) only provides automating the manual activity. The end result is the same as compared to the manual method. A computer can complete the step with out a human. The result is the same.

19. With respect to **Claims 17, 39 and 56**:

Claims 17, 39, and 56 are rejected under 35 U.S.C. 103 as being unpatentable over Peeping. Peeping teaches all of the elements claimed with the exception of a portion of the plurality of rooms further each comprises a display configured to allow a guest to select one of the plurality of rooms and observe an image of an activity occurring within that room as the method of allowing guests to see what is occurring in other rooms. The examiner takes Official Notice that cameras and monitors are old and well established in the business of e-commerce, television and security as a convenient way for a consumer to monitor the occurrence of what type of activity is occurring in a separate location. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the step of allowing a resident to see what was occurring in a separate room in the facility in Peeping by merely providing another computer in the room because the skilled artisan would have recognized that this practice allows guests/participants to view activities occurring within the facility and is clearly applicable to reality TV of any type. These advantages are well known to those skilled in the art.

20. With respect to **Claims 33, 34 and 35**:

Claims 33, 34 and 35 are rejected under 35 U.S.C. 103 as being unpatentable over Peeping. Peeping teaches the displaying of the content from the lodging facility on the internet but does not teach establishing a membership as the method of permitting access to the images. The examiner takes Official Notice that membership groups to an Internet site is old and well established in the business of e-commerce as a convenient way for a company/host to raise revenue and or income or obtain information from a user. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the step of forming a membership group to view the images in Peeping because the skilled artisan would have recognized that this business practice streamlines the process, generates revenue and screens users who would like access to the site and is clearly applicable to any type of web site. These advantages are well known to those skilled in the art.

21. With respect to **Claims 46 and 47**:

Claims 46 and 47 are rejected under 35 U.S.C. 103 as being unpatentable over Peeping. Peeping teaches the displaying of the content from the lodging facility on the Internet but does not teach using the image in association with advertising and placing image on display media for sale. The examiner takes Official Notice that advertising and sales of memorabilia is old and well established in the business of e-commerce as a convenient way for a company to make more money on images collected. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the step of using the collected image collected in Peeping by merely using the image in an

advertisement and in the sale of, for instance a t-shirt because the skilled artisan would have recognized that this business practice generates a lot more revenue and is most certainly applicable to the advertising of any type of product and sale of any type of memorabilia. These advantages are well known to those skilled in the art.

22. **Claims 1-56** are rejected under 35 U.S.C. 103(a) as being unpatentable over "NYU sues proprietor of Dorm Cam" sex site; McCollum, Kelly; Chronicle of Higher Education; v44 n47, pA20; July 31, 1998 (attached herein) (NYU) in view of "Gender and Privacy in cyberspace"; Stanford Law Review; 52, 5, 1175; May 2000 (attached herein) (GENDER).

NYU shows collecting images of a guest activity with in a room and displaying activities on the internet. (See 1). NYU also shows that there is a free part of the site, and hence membership is required and editing/and storage of images occurs. Also apparently the theme of the room is NYU dorm girl activities. Gender shows a site called "Dolls' House" in which women agree to twenty-four hour surveillance in exchange for living rent-free for six months. Essentially the two piece of prior art show that at the time of the invention lodging facilities with the sole purpose of being set up to display images found with in on the internet was old and well known at the time of the invention. Furthermore the concept of allowing a person/guest some type of discount in lodging or a financial reward; in exchange for consent to be filmed and have said guests' image commercially exploited on Internet was old and well known with in the art. Once the basic premise free stay at lodging facility for permission to capture image and

display on Internet the rest of the claimed limitations are just obvious steps in carrying out the lodging facility and theme website which any skilled artisan would recognize as necessary steps for establishing a successful website.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Patent Number 6,732,183; Graham. Demonstrates the system of the claimed invention that of the network delivery of audio and video information to multiple users over a network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L. Brooks whose telephone number is (571) 272-8112. The examiner can normally be reached on Monday - Friday; 8 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-8112. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MLB
11/14/2004

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